THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.20236 and 22401 of 2005

03.04.2006

Between:

K.Anand, S/o.Kalyan Singh

And others

… Petitioners

AND

The District Collector, Ranga Reddy District

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.20236 and 22401 of 2005

COMMON ORDER:

The petitioners in these two writ petitions purchased various house sites bearing different plot numbers in survey Nos.111 to 118 of Balanagar village in Ranga Reddy District from one E.S.Setji. They allege that one Mudike Mallaiah was the original pattadar, who sold the plots to Setji and several others, after collecting sale consideration. It is the case of the petitioners that after purchasing the plots, they constructed either houses or industrial sheds and obtained necessary electrical connections, and staying in the houses. In 1998, when there was a threat from the Commissioner of Kukatpally Municipality, the petitioners filed writ petition being W.P.No.14421 of 1998 seeking a direction to the respondents not to interfere with their possession. The said writ petition along with other writ petitions was disposed of on 05.10.2001 observing that the officials cannot evict the petitioners without due process of law. It is now alleged that on 08.9.2005, the MRO came along with Station House Officer (SHO) of P.S. Balanagar and demolished the houses. As there is a threat of further demolition, they filed the present writ petition seeking declaration that the action of the respondents in trying to interfere and demolish the houses of the petitioners as illegal and arbitrary and for a consequential direction to the respondents not to demolish and interfere with peaceful possession.

Heard the learned Counsel for the petitioners and learned Assistant Government Pleader for Revenue (General).

It is brought to the notice of this Court that the writ petition being W.P.No.20154 of 2005 was filed for similar relief. By order dated 27.10.2005, this Court disposed of the said writ petition observing that it would not be proper for the revenue officials to take any coercive action while applications made by the petitioners therein seeking regularization from the Government are pending. Subsequently, W.P.No.21742 of 2005 was filed by legal heirs of Mudike Mallaiah. They alleged that Mallaiah filed a declaration under Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act, for brevity), that the Special Officer, Urban Land Ceiling, determined Mallaiah to be surplus landholder, and that after death of Mallaiah, the legal heirs filed appeal when the appellate authority allowed the appeals and remanded the matter to Special Officer. Their contention was that unless and until the proceedings under ULC Act are completed and the excess vacant land vests in the Government, G.O.Ms.No.455, dated 29.7.2002 enabling regularization of occupation of urban land, has no application. Taking the same into consideration, this Court disposed of the three writ petitions by order dated 27.10.2005. In the said judgment, this Court observed as under.

> G.O.Ms.No.455 enables the Government to consider the request for regularization of urban lands and allotment where the excess land is already vested with the Government under Section 10(3) of the Act. It becomes clear therefore that unless and until the proceedings under the Act like issue of final statement under Section 8(4) read with 9(1) of the Act are completed, the land does not absolutely vest in the Government under Section 10(3) of the Act free from encumbrances. Therefore, unless and until the Special Officer completes the enquiry in C.C.No.F1/48 to 55 of 83, the question of consideration for regularization under G.O.Ms.No.455 does not arise. Further, any enquiry under G.O.Ms.No.455 will only be with reference to the land that is vested with the Government, and in the event of any doubt, it is always necessary and permissible to the Special Officer at the stage of enquiry to issue notice to the original declarants or their legal heirs, who filed declarations under Section 6 of the Act.

While observing that whenever there is a dispute as to possession of the land or existence of a house, such persons have to approach the Civil Court and obtain appropriate orders in the matter. The said writ petitions were disposed of, in the following terms.

> In the facts and circumstances, these three writ petitions are accordingly disposed of directing the Government of Andhra Pradesh and the Special Officer, Urban Land Ceiling, Hyderabad not to consider any applications filed by any person in relation to the land in S.Nos.111 to 118 of Balanagar village and Mandal, Ranga Reddy District, till the finalisation of the land ceiling proceedings in the declarations filed by the petitioners in W.P.No.21742 of 2005. Further, as and when such applications are filed by any persons for regularization in relation to the land in the said survey numbers, necessary notice may be issued to the declarants/owners of the land, before passing any orders.

In this case, the petitioners alleged that they are in possession of the land and the MRO with the assistance of SHO is resorting to coercive action to evict them. If anybody disputes their possession, such persons have to approach the Civil Court for necessary relief. Similarly, if there is threat of dispossession, only remedy available to the petitioners is in approaching the Civil Court and obtain appropriate injunction making the persons, who disputes the title of the petitioners, as party defendants.

The writ petitions, with the above observations, are accordingly disposed of, in the terms as above. No costs.

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(**V.V.S.RAO, J**)

April 03, 2006

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